

**ZONING BOARD OF APPEALS**  
**Tuesday, December 15, 2009**  
**6:30 P.M. – City Council Chambers**  
**Rockford City Hall, 425 East State Street**

**Present:**

**ZBA Members:** Alicia DiBenedetto Neubauer  
Aaron Magdziarz  
Scott Sanders  
Craig Sockwell

**Absent:** Dan Roszkowski  
Julio Salgado

**Staff:** Todd Cagnoni - Deputy Director, Construction Services  
Sandra Hawthorne – Administrative Assistant  
Jon Hollander – City Engineer, Public Works  
Mark Marinaro – Fire Prevention

**Others:** Alderman Doug Mark  
Alderman Nancy Johnson  
Kathy Berg, Stenographer  
Applicants and Interested Parties

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Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as follows:

The Chairman will call the address of the application.

- The Applicant or representative are to come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Zoning Board secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.
- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns, answer questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Monday, December 28th, at 4:30 PM in Conference Room A of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact Sandra Hawthorne in the Zoning Office for future information and that her phone number was listed on the top of the agenda which was made available to all those in attendance at the beginning of the meeting. The City's web site address for minutes of this meeting were listed on the agenda as well.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the minutes of the November 17th meeting as submitted. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-0, with Dan Roszkowski and Julio Salgado absent.

**051-09                      2341 17<sup>th</sup> Avenue**

Applicant                Brandon Wirtjes

Ward 8                    **Variation** to increase the front yard fence height from maximum allowed 4 feet to 5 feet 10 inches along 20<sup>th</sup> Street in an R-1, Single-family Zoning District

The subject property is located on the southwest corner of 17<sup>th</sup> Avenue and 20<sup>th</sup> Street and is a single-family residence. This application is a result of a violation for installation of a fence without a permit and for height exceeding that allowed in the front yard. Brandon Wirtjes, Applicant, reviewed his request. Mr. Wirtjes stated they moved in 2004 and within the first week their vehicle was broken into. A second break-in then occurred with substantial loss. In 2008 the garage was again broken into and yet once again in August of this year. Mr. Wirtjes stated it is clear to him that his garage is being targeted and in an event to discourage further break-ins they put up a 5'10" fence. Mr. Wirtjes stated he was not aware of a permit required, nor that because his property is a corner lot it is considered to have two front yards.

Staff Recommendation is for Denial. Interested Parties were present.

Philip Nelson, 2337 17<sup>th</sup> Avenue, was present in support of this request. Mr. Nelson stated he lives to the west of the Applicants, and pointed out that this fence is constructed far enough back so as not to block the view of traffic.

Alderman Nancy Johnson also spoke in support of the increase in fence height. She stated there are two other corner lots at this intersection that also have 6 foot privacy fences. Although these were grandfathered in, she understands that the Applicant may have assumed his property would also allow a fence over 4' high. She explained this property is quite elevated from the street and sidewalk and should not impose any problems.

Mr. Sockwell asked if the garage itself was fenced in. Mr. Wirtjes stated the actual garage overhead door is not fenced in. He explained the first break-in occurred through this door. He then installed a new garage door with locking mechanism that would not allow entry. Mr. Wirtjes stated the additional break-ins did not gain access through this secured overhead door.

Mr. Sanders stated this fence does not seem to block vision from the alley or the street and he would be in favor of approval. Mr. Sockwell stated he was also fine with it.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Variation to increase the front yard fence height from maximum allowed 4 feet to 5 feet 10 inches along 20<sup>th</sup> Street in an R-1, Single-family Zoning District at 2341 17<sup>th</sup> Avenue. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-0.

**ZBA 051-09**  
**Findings of Fact for a Variation**  
**To Increase the Front Yard Fence Height**  
**From Four Feet to Five Feet Ten Inches**  
**In an R-1, Single-Family Residential Zoning District at**  
**2341 17<sup>th</sup> Avenue**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

**052-09**                      **758 North 2<sup>nd</sup> Street**  
Applicant                Atty. Kevin Frost / L.I.U.N.A. Local #32  
Ward 3                    **Zoning Map Amendment** from R-2, Two-family Residential District to C-1, Limited Office District  
                                 **Variation** to reduce required parking from 140 parking spaces to 26 parking spaces in a C-1, Limited Office Zoning District

The subject property is located south of Whitman, west of North 2<sup>nd</sup> Street, approximately 465 feet north of Olive Street and is currently a vacant model home. The site is just under an acre in size and contains approximately six lots. Attorney Kevin Frost, representing the Applicant, reviewed the requests for Zoning Map Amendment and Variation. He stated it has been difficult to find a use for this odd shaped property – the property was offered to the City, the Park District and a church group, all of whom declined to take ownership. He explained the building will be used for monthly meetings consisting of 20 to 25 members and parking will be adequate. There is street parking in front of the property as well. The only time parking may be exceeded is during a Christmas party for members and families only and this is not expected to be a problem. No alcohol will be served in this building. The facia will be all brick and stone and built by Scandrol Construction.

Craig Sockwell asked if there would be an entrance from North 2<sup>nd</sup>. Attorney Frost stated there will not be a turn off from North 2<sup>nd</sup> directly, but rather from a frontage road.

Staff Recommendation is for Approval of both requests with 5 conditions. Interested Parties were present. No Objectors were present.

Alderman Doug Mark was present in support of this project. He stated this is a good use of the property that has been sitting there "forever". There is currently a modular home on this property and the city has worked with the owner to have this home removed. He feels this is positive for the neighborhood.

Mr. Cagnoni wished to add clarification to the portion of the staff report pertaining to requirements to improve the alley as part of the construction project. Staff asked the Board that improvement to that portion of the alley be added as a condition. Attorney Frost agreed this was discussed with Staff and stated his clients have no problem doing any improvements in the area designated.

Mr. Sanders stated he is in agreement with this project; however because of the proximity of residential in the area he wished to be certain that required landscaping buffers be adhered to by the Applicant.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Zoning Map Amendment from R-2, Two-family Residential District to C-1, Limited Office District; and to **APPROVE** the Variation to reduce required parking from 140 parking spaces to 26 parking spaces in a C-1, Limited Office Zoning District at 758 North 2<sup>nd</sup> Street with added condition 6. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes
2. Submittal of landscaping plan including required landscape buffers for Staff's review and approval.
3. The meeting hall shall not be leased or rented for non-union related parties and any other activity as indicated within Exhibit E.
4. If the property is sold, future uses of the property would need to be evaluated for compliance of parking
5. That the property develop in general conformance with the submitted site plan and building elevation
6. That the alley is improved adjacent to the property as part of the development

**ZBA 052-09**  
**Findings of Fact for a Zoning Map Amendment**  
**From R-2, Two-Family Residential District**  
**To C-1, Limited Office District at**  
**758 North 2<sup>nd</sup> Street**

**Approval** of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
  - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
  - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and as indicated in Exhibit E;

- c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood.
2. The proposed Zoning Map Amendment is consistent with the approved general plan submitted as general office use.

**ZBA 052-09**  
**Findings of Fact for a Variation**  
**To Reduce the Required Parking**  
**From 140 Parking Spaces to 26 Parking Spaces**  
**In a C-1, Limited Office District at**  
**758 North 2<sup>nd</sup> Street**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

<b>053-09</b>	<b><u>5XX and 702 Cambridge Avenue</u></b>
Applicant	Jewel Shores
Ward 13	<b>Special Use Permit</b> for a church and church related services
	<b>Variation</b> to reduce minimum required rear yard setback from 30 feet to 12 feet 8 inches
	<b>Variation</b> to increase the Maximum Impervious Surface Ratio from 40% to 60% in an R-1, Single-family Residential Zoning District

The subject property is located on the southeast corner of Cambridge Avenue and Hudson Street and is surrounded by residential uses. Darius Smith, representing the Applicant, reviewed the requests. Mr. Smith stated he is a member of Street Corner Deliverance Church and it is their intent is to build a church at this location.

Mr. Cagnoni stated Staff feels this is a great project. The city has been encouraging development in this area and this church will be a good start.

Ms. Neubauer wished for clarification that the multi-purpose room is considered to be the same head count for parking as the church. Mr. Cagnoni stated this was correct.

Staff Recommendation was for Approval of all three requests, with 4 conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Special Use Permit for a church and church related services; **APPROVE** the Variation to reduce minimum required rear yard setback from 30 feet to 12 feet 8 inches; and **APPROVE** the Variation to increase the Maximum Impervious Surface Ratio from 40% to 60% in an R-1, Single-family Residential Zoning District at 5XX & 702 Cambridge Avenue. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. Meeting all applicable fire and building codes.
2. Submittal of a revised Landscaping Plan and an Illumination Plan for Staff review and approval prior to Zoning Clearance for a building permit
3. Submittal of a Building permit for Staff review and approval
4. Site must develop in accordance with Exhibit D

**ZBA 053-09**  
**Findings of Fact for a Special Use Permit**  
**For a Church and Church Related Services**  
**In an R-1, Single-Family Residential Zoning District at**  
**5XX and 702 Cambridge Avenue**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-1, Single-family Zoning District in which it is located.

**ZBA 053-09**  
**Findings of Fact for a Variation**  
**To Reduce the Minimum Required Rear Yard Setback**  
**From 30 Feet to 12 Feet 8 Inches**  
**In an R-1, Single-Family Residential Zoning District at**  
**5XX and 702 Cambridge Avenue**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

**ZBA 053-09**  
**Findings of Fact for a Variation**  
**To Increase the Maximum Impervious Surface Ratio**  
**From Forty Percent (40%) to Sixty Percent (60%)**  
**In an R-1, Single-Family Residential Zoning District at**  
**5XX and 702 Cambridge Avenue**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.

3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

**050-09**                      **1019 Broadway**  
Applicant                  Frank Amato  
Ward 11                    **Special Use Permit** for a night club in a C-4, Urban Mixed-Use District

This item was Laid Over at the November meeting because the Board requested further information from the Applicant. As the Applicant had not contacted Staff prior to this meeting, Staff is requesting that this item be Laid Over to January pending the receipt of requested information from the Applicant prior to that meeting.

A **MOTION** was made by Aaron Magdziarz to **LAY OVER** the sale of liquor by the drink in conjunction with a night club, live music venue and karaoke bar in the name of Frank Amato d/b/a Body Shop on Broadway in a C-4, Urban Mixed-Use District at 1019 Broadway. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-0.

With no further business to come before the Board, the meeting was adjourned at 7:15 P.M.

Respectfully submitted,  
Sandra A. Hawthorne, Administrative Assistant  
Zoning Board of Appeals